6th February 1923]

The Secretary then read the title of the Bill.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to move that the Bill be not referred to a Select Committee."

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

The motion was put and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I now request the hon. the President to suspend the operation of Standing Order 39."

The hon. the PRESIDENT :—" I suspend the operation of the Standing Order."

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to move that the Bill be taken into consideration at once."

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

The motion was put and carried.

The hon. Khan Bahadur Sir MUHAMMAD HABIB-UL-LAH SAHIB Bahadur :—" I beg to move that the Bill be passed into law."

The hon. Sir K. SRINIVASA AYYANGAR :—" I second it."

The motion was put and carried.

V

A BILL TO AMEND THE MADRAS DISTRICT MUNICIPALITIES ACT, 1920.

The hon. the RAJA OF PANAGAL :—" Mr. President, I beg to move that the Bill to amend the District Municipalities Act, 1920, be read in Council. Sir, the introduction of the Bill, was approved by the Governor-General in Council, and the Bill itself published in the *Fort St. George Gazette*. Hon. Members are aware that the law at present applicable to the working and constitution of district municipalities is embodied in the Act of 1920. That Act, I need hardly say, was passed under the very best auspices of, its passage having been piloted by no less a personage than, our guide, philosopher and friend whom we of this House at the present moment have the happy privilege to own as our own President (' hear, hear '). Since the passing of this Act, there has been much water flowing under the bridge. In consequence of the transfer of the Local Self-Government to the popular part of the Government under the Reforms inaugurated by the Government of India Act of 1919 and of the coming into operation of the Acts of 1920 which liberalized the constitution of the local boards and district municipalities, the people of this Presidency have been evincing a great deal of interest in matters relating to the local bodies, so that during the somewhat short interval between the passing of the District Municipalities Act of 1920 and now, the necessity has been felt for amending the Act in various respects to tide over the difficulties which have arisen in facing the situations. Some of these amendments have already been introduced into this Council and passed. Sir, there is still need for further amendment of the Act, and the present Bill attempts on a comprehensive scale to place on the Statute Book all the amendments which are considered desirable.

" It is not claimed that the Bill is either exhaustive or perfect. It is open to hon. Members to criticize the Bill both in the Select Committee stage and later and to add to and subtract from or otherwise change those amendments. With a view to enable hon. Members to visualise the effect of the amendments, it has been arranged to supply each Member with a copy of the Act with the amendments inserted in the sections. I am sure, by this time, hon. Members will have familiarized themselves with the various amendments, and whatever criticisms they are prepared to offer will be welcome.

11-15 a.m.

" Sir, the District Municipalities Act of 1920 was passed earlier than the Local Boards Act of that year. The latter Act has provisions which are far more liberal in some respects, and the idea is to bring the provisions of the District Municipalities Act in those respects into line with corresponding provisions of the Local Boards Act. According to the Local Boards Act women are eligible to stand as candidates for elections. Provision is proposed to be introduced to enable women to stand for election even for district municipalities. Provisions are also to be introduced to enable the municipal councils to have greater powers in the matter of controlling markets and licensing of cart-stands and in dealing with cases of temporary encroachments.

" Under toll-gates some changes are to be introduced to take power to the Government to avoid promiscuous location of toll-gates, and settle disputes in sharing the toll income among the several local bodies which are entitled to share it.

" Under taxes, Sir, district municipalities will be given powers to levy the scavenging tax and make their own scavenging arrangements.

" They will also be empowered to tax non-agricultural lands on their capital value.

" Some changes have been introduced in regard to the companies tax. Under the Act of 1884 companies were taxed provisionally; but under the Act of 1920 the companies are charged according to their paid-up capital though it is open to the head office or a branch of the principal office which is not in the municipality concerned to claim to be assessed on the income provided such income does not exceed Rs. 25,000 in the year. Considerable dissatisfaction has found expression in regard to this method of taxing companies and the Government have been pleased to find out a basis of taxing the companies which would be open to less objection. It was at one time proposed to tax companies also like persons on their income, but at the instance of and after consultation with the representatives of the Chamber of Commerce and Trades Associations, Madras, it was decided to assess the tax on the turnover of the business. Whether this is a better basis for taxing companies is a matter which is open to doubt.

" I am not wedded to the amendments which have been introduced into this Bill. If in the Select Committee stage it is pointed out that there is another basis on which these companies can be taxed more equitably, I shall possibly be able to adopt that basis. Sir, now that this Bill has been introduced, I am sure that my labours in piloting the Bill will be considerably lightened by the experience which hon. Members who have actively engaged in administering local bodies will bring to bear upon the debates in the Select Committee and later stages of the Bill. With these observations I have great pleasure to move that the Bill be read in Council."

6th February 1923]

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" I second it."

Mr. A. RANGANATHA MUDALIYAR :—" Sir, I want to make one or two observations before the motion which is before the House is put. It was understood that to-day and to-morrow would be devoted altogether to non-official business, and I wish to know if the permission to introduce the District Municipalities Act can be described with any reasonableness to be a non-official business. I would ask the hon. the Minister to kindly adjourn this matter to the next meeting ; otherwise, Sir, I would request you permission to formally move that the Council do pass on to consider the next business on the agenda paper."

The hon. the PRESIDENT :—" Under what Standing Order is this motion made ? "

Mr. A. RANGANATHA MUDALIYAR :—" I am referring to a thing which was understood to be given effect to in these two days. I know that once before a similar resolution was moved."

Rao Sahib U. RAMA RAO :—" I second the motion."

The hon. the PRESIDENT :—" The motion before the House is that it may pass on to the business next in order on the agenda paper, under Standing Order No. 34."

The motion was put to the House and lost.

Mr. C. V. VENKATARAMANA AYYANGAR :—" Sir, I just want to say a few words in connexion with one or two subjects referred to by the hon. the Minister for Local Self-Government. Of course, he has been kind enough to say that the whole matter will be considered in the Select Committee, and that the Government has not resolved upon any particular point. One point that I want the Select Committee and the public at large to carefully consider is about the definition of the word ' company '. I do not know if this is intended to improve the definition existing in the previous Act, or if it is intended to make matters more clear. I was told, and I am speaking subject to correction, that this definition was put in by some suggestion of some important bodies such as the Chamber of Commerce in Madras, etc. Members of the Madras Chamber of Commerce, consisting mostly of people who have got business in the metropolis, may think, so far as they are concerned, that they may not be affected by the proposed definition. But the definition is a very wide one and therefore very dangerous to the mufassal companies. First of all, it will include all the co-operative societies and stores because they come under the vague words formed in pursuance of an Act of ' the Legislature of any British possession.' I should think, Sir, that this might be made a little more definite, and that the legislatures in India might be specifically mentioned without their coming under any general category of British possessions including even the remotest islands of the West Indies. Then, if these co-operative societies, etc., come under this category of the company, we only look into this question from their standpoint. Many of these concerns, including the big store in Coimbatore which has been doing business in lakhs and lakhs with the net result that last year there was only a loss, will come under this definition and will have to pay a large tax.

" Again, Sir, according to this definition, taxes can be levied at the rate of 2 annas per 100 on every business transacted. Not only is the word ' turnover ' given, but it is defined as the money value of any business done. We shall take one of our mills, and see how it will be affected by this

definition. There is a mill where a crore of rupees worth of cotton is purchased, a crore of rupees worth of yarn is manufactured, a crore of rupees worth of cloth is manufactured, and a crore of rupees worth of cloth is sold. According to this definition, which includes the manufacture, purchase or sale under the term 'business done', the company will have to pay for four crores, viz., Rs. 50,000, whereas if only the sale is taken as the basis, the company will have to pay Rs. 12,500. Many of the companies are doing banking business. I do not know what the result will be if the Imperial Bank in Madras or Messrs. Parry & Co. are assessed in the manner proposed. The Imperial Bank with 10 or 15 branches in Southern India is doing a very great amount of business by way of cashing cheques. These banks only receive a small commission of 4, 3 or 2 annas and in some cases even one anna. If the definition of the business will include the cashing of cheques, even though the Bank may get only one anna or two annas by way of commission for cashing such cheques, a tax of two annas per hundred will be levied from them. So, Sir, this is a tremendous matter to which many companies will have to succumb. There is no reason at all why a company registered under the Companies Act and therefore subjecting its accounts to audit and other things, should be taxed in this way, while companies not registered and subjecting their accounts to no audit will not come under this Act and will be subject only to the profession tax. It may be, Sir, that some people feel shy to tell the public as to what their net profits will be. There is absolutely no difficulty at all so far as this Bill is concerned to levy from such companies a tax on their net profits.

"So far as the net profits are concerned, there will be no difficulty at all in the case of registered companies, because every registered company, private or public, is bound under the Companies Act to furnish details once a year by way of the balance sheet and the profit and loss account which will necessarily show the net profit. Therefore, nobody need feel shy of the public knowing or at least the municipalities or taluk boards knowing what this will be. Therefore, from the point of economy, from the point of public utility and from the point of finance, it is desirable that this definition of company should be taken away from the Bill and that some better method of easily reckoning the profit or the capital value should be introduced. This is the main point which I wish to draw the attention of the Council to.

11-30 a.m.

"One other point I wish to refer to and that is about the scavenging tax. Hitherto scavenging fee has been collected only from the tenants. We know, Sir, the difficulties to which a landlord owning a number of houses in a municipality will be put to. It may be that the tenants come and go; sometimes there may be no tenants in the house. Provision is made in the present amending Bill empowering the municipalities to exempt particular buildings from the payment of scavenging fees if they are satisfied that arrangements are made for private scavenging. Supposing one tenant who is living in the house for a few months makes satisfactory provision for private scavenging and supposing his successor does not make any such arrangement, then what is to be done with regard to the scavenging fee? Is the owner to be called upon to pay it? Till now this fee is being generally collected from the tenants living in the house. This is also a matter which should be carefully considered by the Select Committee. There are several other matters which require to be carefully gone into. We are very thankful to the hon. Minister in charge of the Bill for saying that the Bill before it emerges from

6th February 1923] [Mr. C. V. Venkataramana Ayyangar]

the Select Committee will not be confined only to the amendments shown in the amending Bill, but that permission will be given to the Select Committee and even to this Council for suggesting such other amendments as may be considered necessary."

The hon. the PRESIDENT :—" Am I to understand that the hon. Member, Mr. Venkataramana Ayyangar, says that it will be open either in the Select Committee stage or in the Council to take up ground not covered by the amendments introduced in the amending Bill now before the Council ? "

Mr. C. V. VENKATARAMANA AYYANGAR :—" Yes, Sir, I understood the hon. the Minister to say so."

The hon. the RAJA OF PANAGAL :—" Any further amendments that may be considered necessary in regard to a particular amendment can be discussed in the Select Committee or even in the Council."

Mr. C. V. VENKATARAMANA AYYANGAR :—" Supposing an hon. Member considers an important change to be necessary, then although it is not covered by the present amending Bill, I wish to know whether such an amendment should not be made in the Select Committee."

The hon. the PRESIDENT :—" I had better say now clearly that any attempt in the Select Committee stage to go beyond the scope of the Bill would be out of order."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, if the Select Committee considers that other amendments to certain other sections are necessary, or if it considers some amendments to be desirable in consequence of the amendments now proposed by the hon. the Minister, then I should like to know whether it would not be open to the Select Committee to introduce such other amendments as it may consider necessary. I understand that the scope of the present amending Bill is a general revision of the District Municipalities Act. I therefore respectfully submit that it would be competent both for the Select Committee and the Council to introduce amendments to sections other than those mentioned in the Bill now introduced."

The hon. the RAJA OF PANAGAL :—" Sir, I understand that in the House of Commons the Select Committee can not only improve the amendments the Bill referred to it proposes to introduce but also introduce new amendments. What however I meant when I said that there would be opportunities for members to amend further, was that the hon. Members could, if they found it necessary, introduce amendments which would have a bearing upon the amendments proposed in the Bill."

The hon. the PRESIDENT :—" The hon. Member Mr. Ramachandra Rao Pantulu has referred to two classes of amendments. Firstly, those amendments which, though they do not directly deal with the particular sections, are really connected with the amendments contained in the present amending Bill, and, secondly, those which are quite independent. The first class of amendments will be quite in order, but the second class will be out of order."

The hon. the RAJA OF PANAGAL :—" I respectfully submit, Sir, that I am not quite so sure that the second class of amendments will be quite out of order."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" May I respectfully point out, Sir, that the hon. Minister, while introducing this Bill, said that he

was contemplating a general revision of the District Municipalities Act? He wanted by this amending Bill to undertake a general revision of the District Municipalities Act."

The hon. the RAJA OF PANAGAL :—" I have already said, Sir, that the Bill is neither exhaustive nor perfect."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" I did not ask the hon. Minister whether the Bill was exhaustive or perfect. I only said that the hon. Minister undertook a general revision of the whole Act by introducing this amending Bill."

The hon. the PRESIDENT :—" Anyhow we need not pursue the matter any further now. I simply wanted to make it clear that if amendments wholly unconnected with the scope of any of the changes made in the present Bill are introduced, then there is the contingency of their being ruled out of order."

Mr. C. V. VENKATARAMANA AYYANGAR :—" I do not think I shall be out of place here to point out one or two important omissions. No doubt the hon. Minister and his advisers are to be congratulated for having gone very carefully into the Bill and brought forward all possible amendments. Still, I must say that one or two important points have been omitted from the amending Bill. In the list of licences to be issued half-yearly to animals, there is reference only to a male buffalo; but when tolls are to be paid for animals that come into a municipality, there is reference only to a buffalo. Hon. Members are aware that there are several people who own only she-buffaloes and they cannot take licences because there is no reference to she-buffaloes in the list of animals for which licences can be taken. There are several poor ryots who live inside the municipality owning at the same time lands outside the municipal limits and whenever they take their she-buffaloes to the fields and come back they are obliged to pay tolls. Thus, they are called upon to pay tolls all the year round, in fact for all the 365 days. Indeed it is very hard for the poor ryot to be paying tolls every time he takes his animal out. I think this is an important point which needs attention at the hands of the Select Committee. There are several minor points like this and I simply make mention of these, so that the Select Committee may go carefully into all these matters and bring forward a more satisfactory Bill. With these few words, I support the introduction of the Bill."

Diwan Bahadur M. RAMACHANDRA RAO PANTULU :—" Sir, I do not wish to go into all the details of this Bill; but I wish to draw the attention of the House to one or two important points. Clause 74 of the amending Bill seems to invoke the provisions of the Criminal Procedure Code for the recovery of taxes in addition to fines. I think, Sir, the machinery of the Criminal Procedure Code should not be made applicable for recovery of municipal taxes. The present position is that if a man does not pay taxes, he is prosecuted and a fine is imposed upon him. To that extent certainly there is no objection for invoking the aid of the Code of Criminal Procedure; but this might, in some eventualities, be made the instrument for the collection of municipal taxes also. I do not think it is fair to extend the provisions of the Criminal Procedure Code for collection of taxes also. This matter deserves to be examined by the Select Committee.

" The second objectionable point is this: scavenging fees are sought to be collected from all persons who own private latrines in municipalities irrespective of the fact whether they require municipal scavenging service or not.

6th February 1923] [Mr. M. Ramachandra Rao Pantulu]

The objection to the levy of this tax is obvious. Hitherto the policy of the municipal administration in the Madras Presidency has been to regard scavenging service as a service to be rendered to those who desire it. But I am not prepared to accede to the principle that scavenging tax should be imposed on all persons irrespective of the fact whether they want municipal scavenging service or not. Knowing as we do the defective character of scavenging service in several municipalities, it seems to me to be highly desirable to encourage persons to make their own arrangements for private scavenging service. We should not ask people to pay for services which they do not want. At the same time, I know, Sir, that there are several municipalities in Northern India which impose this scavenging tax on all persons; but we are not quite so advanced, and our Presidency need not copy those municipalities in this respect. These are the two matters of principle, and I beg to suggest that they should be carefully examined by the Select Committee. I for one am opposed to both the principles embodied in the Bill.

"As regards the ground covered by my hon. friend Mr. Venkataramana Ayyangar in regard to the companies, I for one would not hesitate to make as much as I can by way of municipal revenues from companies which are making their profits in municipal areas."

The motion that the Bill to amend the Madras District Municipalities Act be read in Council was put and carried.

The Secretary then read the title of the Bill.

The hon. the RAJA OF PANAGAL:—"Sir, I beg to move that the Bill be referred to a Select Committee consisting of the following hon. Members:—

The hon. Rai Bahadur K. Venkatareddi Nayudu.
,, Rao Bahadur A. P. Patro.
Mr. Abbas Ali Khan.
Khan Sahib Munshi Muhammad Abdur Rahman Sahib Bahadur.
Mr. K. Audinarayana Reddi.
Rao Bahadur T. Balaji Rao Nayudu.
,, A. S. Krishna Rao Pantulu.
Mr. A. M. MacDougall.
Rai Bahadur T. M. Narasimhacharlu.
Rao Bahadur C. V. S. Narasimha Raju.
Mr. C. Ponnuswami Nayudu.
The Raja of Ramnad.
Rao Bahadur T. A. Ramalinga Chettiyar.
Diwan Bahadur T. N. Sivagnanam Pillai.
Diwan Bahadur K. Suryanarayanamurti Nayudu.
Mr. C. E. Wood.
,, C. V. Venkataramana Ayyangar.
,, C. Venkataranga Reddi.
,, A. Y. G. Campbell.
Diwan Bahadur Sir T. Desika Achariyar.
Mr. E. F. Thomas.
,, C. P. Ramaswami Ayyar (*Advocate-General*).
Mr. G. Vandanam.
Rai Bahadur N. Gopalaswami Ayyangar.
Mr. Ahmad Miran Sahib.
,, A. D. M. Bavotti Sahib.
The mover (the hon. the Raja of Panagal).

"Sir, I also propose to nominate Mr. Murray as one of the Members of the Select Committee. He has not yet taken the oath of allegiance, but I suppose you will permit me to add his name in the list later on."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU seconded the motion.

The hon. the PRESIDENT:—"The election of members to the Select Committee is confined to the Members of the Council and, as such, a gentleman who is not a member of the House cannot be appointed."

The hon. the RAJA OF PANAGAL:—"Then I shall not make that suggestion now."

The hon. the PRESIDENT:—"Before putting this motion to the House, I wish to inform the Council that in the old Council there was a rule fixing the time-limit within which the Select Committee should submit its report. I wish to know if there is any chance of this Bill being taken up before the next meeting."

11-45 a.m.

The hon. the RAJA OF PANAGAL :—" No. Not in the next meeting, Sir, but later on after the recess."

The hon. the PRESIDENT :—" After the voting of demands for grants ? "

The hon. the RAJA OF PANAGAL :—" I do not think it will be possible to finish it by that time."

The hon. the PRESIDENT :—" Mr. Gopalaswami Ayyangar is, I believe, sitting here as an expert Member of this Bill also."

The hon. the RAJA OF PANAGAL :—" Yes. I have also included his name in the Select Committee."

Rao Bahadur C. V. S. NARASIMHA RAJU :—" Is it not necessary, Sir, that he should take the oath of allegiance in order to enable him to sit as a Member in connexion with this Bill also ? "

The hon. the PRESIDENT :—" We shall consider that point later on. In the meantime, if Mr. N. Gopalaswami Ayyangar wishes to vote on any motion, the hon. Member may raise a point of order, and we shall consider then."

The motion that the Bill be referred to a Select Committee was put and carried.

VI

A BILL TO AMEND THE MADRAS LOCAL BOARDS ACT, 1920

The hon. the RAJA OF PANAGAL :—" Sir, my observations in regard to the Madras District Municipalities Act Amendment Bill generally apply to this Bill also. I do not wish to take up more of the Council's time. With these few words, I move that the Bill to amend the Madras Local Boards Act be read in Council."

The hon. Rai Bahadur K. VENKATAREDDI NAYUDU :—" I second it."

The RAJA OF RAMNAD :—" I only wish to say a few words before I express my support to the Bill which the hon. the Raja of Panagal has introduced. The Bill provides for direct election for members of district boards, and it will be within your recollection, Sir, that when the Act of 1920 was passed I agitated for a provision of this kind, but it was thrown out owing to the peculiar composition of the then Council. Therefore, Sir, it is with particular pleasure that I welcome this Bill with reference to the question of direct election.

" There are certain other matters which require very careful consideration. For instance, the new provision sought to be introduced in place of the present section 31 (*c*) is one by which powers are taken to issue rules with reference to preservation of order. I do not know, Sir, if any such power is necessary, for the preservation of order is a matter common to all public meetings. I really do not understand what kind of rule the Government wish to issue in this matter, but I suppose the matter will be discussed in the Select Committee. I simply wish to say that this is a very serious amendment.

" Another matter is with reference to residence. I think sections 52 (*e*) and 56 (*g*) of the present Act deal with that question. One gentleman became a member of the Taluk Board of Ramnad, subsequently he became a member of the District Board of Ramnad and then he was nominated as a member of the Madura Municipal Council. I was told that there was nothing against this gentleman being a member in these three bodies. Added to this,